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11 **UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

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15 IN RE SNAP INC. SECURITIES
16 LITIGATION

17 Case No. 2:17-cv-03679-SVW-AGR

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21 **CLASS ACTION**

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25 **UNDERWRITERS' NOTICE OF
JOINDER AND JOINDER IN SNAP
DEFENDANTS' MOTION FOR
CERTIFICATION OF AN
INTERLOCUTORY APPEAL
UNDER 28 U.S.C. § 1292(b)**

26 Date: August 13, 2018
27 Time: 1:30 p.m.
Courtroom: 10A
Judge: Hon. Stephen V. Wilson

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This Document Relates to: All Actions.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:¹**

2 PLEASE TAKE NOTICE that on August 13, 2018, at 1:30 p.m., or as soon
 3 thereafter as the matter may be heard, in the courtroom of the Honorable Stephen
 4 V. Wilson, United States District Judge for the Central District of California,
 5 located at the First Street Courthouse, 350 W. 1st Street, Courtroom 10A, Los
 6 Angeles, California, 90012, the Underwriters will and hereby do join in the Snap
 7 Defendants' Motion for Certification of an Interlocutory Appeal under 28 U.S.C.
 8 § 1292(b), and incorporate the papers filed and arguments made by the Snap
 9 Defendants. The Underwriters' joinder is based on this notice, the papers filed in
 10 connection with the Snap Defendants' motion to dismiss, this Court's June 7, 2018
 11 order denying defendants' motions to dismiss, the Certification Motion, all
 12 pleadings and papers on file in this action, and such other further written and oral
 13 argument as may be presented to the Court at the hearing on the Certification
 14 Motion or before the Court's decision.

15 As explained in the Snap Brief, certification is warranted because (i) the
 16 damages issue is a controlling question of law; (ii) there are substantial grounds for
 17 the parties' difference of opinion; and (iii) an appellate ruling has the potential to
 18 terminate claims. (Snap Br. at 4.) The Section 11 damages question is controlling
 19 because an appellate ruling in Snap's favor would require dismissal of the Section
 20 11 claim for lack of damages and would materially affect the outcome and scope of
 21 the litigation in the district court. (*Id.* at 4 ("[I]f the Ninth Circuit reverses and
 22 holds that Plaintiffs lack damages under § 11, that holding will require dismissal of
 23 Plaintiffs' [§ 11] claim.").) This significant narrowing of the case satisfies the

24 ¹ The "Underwriters" submitting this joinder are Morgan Stanley & Co. LLC, Goldman Sachs &
 25 Co. LLC, J.P. Morgan Securities LLC, Deutsche Bank Securities Inc., Barclays Capital Inc.,
 26 Credit Suisse Securities (USA) LLC, and Allen & Company LLC. For the Court's convenience,
 27 we use in this joinder the capitalized terms listed in the Table of Abbreviations on page iv of the
 28 Memorandum of Points and Authorities in Support of Snap Defendants' Motion for Certification
 of Interlocutory Appeal under 28 U.S.C. § 1292(b) (the "Snap Brief"), and refer to the Snap
 Defendants' motion as the "Certification Motion."

1 “material[] advance[ment]” prong of § 1292(b). (*See* Snap Br. at 11 (citing *Sterk v.*
 2 *Redbox Automated Retail, LLC*, 672 F.3d 535, 536 (7th Cir. 2012))); *see also Scott*
 3 *v. Ruston La. Hosp. Co., LLC*, 2017 WL 1364219 (W.D. La. Apr. 12, 2017)
 4 (certifying for appeal issue of applicability of damages cap because resolution of
 5 issue could potentially advance termination of litigation).

6 Aside from meeting all three of § 1292(b)’s requirements for certification,
 7 the damages issue should also be certified because an appellate ruling would
 8 provide clarity in an ever-growing field of litigation. *See Dahlstrom v. Sun-Times*
 9 *Media, LLC*, 39 F. Supp. 3d 998, 1001 (N.D. Ill. 2014) (noting “added benefits” of
 10 certification on potential third-party discovery and potential collateral litigation).
 11 Section 11 cases in California federal and state court have ballooned in recent
 12 years, with 37 new complaints in 2015, and 34 in 2016, up from 26 in 2010.
 13 Cornerstone Research, *Securities Class Action Filings: 2017 Year in Review*, at 21,
 14 available at [https://www.cornerstone.com/Publications/Reports/Securities-Class-](https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2017-YIR)
 15 [Action-Filings-2017-YIR](#). Providing clarity on what the “value” of a security is for
 16 Section 11 purposes, or the controlling filing date in a consolidated litigation,
 17 would assist increasing numbers of litigants and courts that will often face the same
 18 or similar questions. *See Strougo v. Scudder, Stevens & Clark, Inc.*, 1997 WL
 19 473566, at *7 (S.D.N.Y. Aug. 8, 1997) (explaining that issue that could have
 20 “precedential value for a large number of cases” may constitute controlling question
 21 of law for § 1292(b) purposes).

22 Because an interlocutory appeal could resolve the controlling issue of
 23 damages and potentially terminate Plaintiffs’ Section 11 claim, certification under
 24 28 U.S.C. § 1292(b) is appropriate.

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3 Dated: June 28, 2018

Respectfully submitted,

O'MELVENY & MYERS LLP

4 By: /s/ Jonathan Rosenberg
5 Jonathan Rosenberg

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